

<p style="text-align: center;"><b>KENTUCKY CORRECTIONS</b> Policies and Procedures</p>	<p>Policy Number</p> <p style="text-align: center;">13.5</p> <p>Date Filed</p> <p style="text-align: center;">January 12, 2005</p>	<p>Total Pages</p> <p style="text-align: center;">4</p> <p>Effective Date</p> <p style="text-align: center;">May 26, 2005</p>
<p>Authority/References</p> <p>KRS 197.020, 196.035, 311.621, 311.623, 311.6231, 311.625, 311.627, 311.629, 311.631, 311.633, 311.635, 311.637 and 311.641</p>	<p>Subject</p> <p style="text-align: center;"><b>ADVANCE HEALTHCARE DIRECTIVES</b></p>	

## I. DEFINITIONS

“Advance directive” is defined in KRS 311.621.

“Decisional capacity” is defined in KRS 311.621.

“Living will” means a document in which a person states his desire to have or not have extraordinary life-prolonging measures used when recovery is not possible from his terminal condition.

“Health Care Surrogate” means an adult who has been designated to make health care decisions in accordance with KRS 311.621 to 311.643

“Life-prolonging treatment” is defined in KRS 311.621.

“Do Not Resuscitate Order” means a written order which authorizes medical personnel to withhold cardiopulmonary resuscitation, including artificial respiration, and defibrillation, from a particular patient in the event of cardiac or respiratory arrest. Such an order does not authorize the withholding of other medical interventions such as intravenous fluids, oxygen, or other therapies deemed necessary to provide comfort care or to alleviate pain. A Do Not Resuscitate Order may hereinafter be referred to as a DNR Order.

“Permanently unconscious” means a condition which to a reasonable degree of medical probability, as determined solely by the patient’s attending physician and one (1) other physician on clinical examination, is characterized by an absence of cerebral cortical functions indicative of consciousness or behavioral interaction with the environment.

## II. POLICY and PROCEDURE

### A. Advance Directives

1. Advance directives are documents that specify end of life decisions and are signed only after the inmate receives appropriate information

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regarding the meaning and consequences of such decisions.

2. The Department of Corrections (DOC) shall accept all properly executed, written advance directives and shall place the advance directives document after it is received in the inmate's medical record. The attending physician or any medical department employee who receives an original or a copy of an inmate's advance directive upon admission, transfer, or commitment shall be responsible for ensuring that such original or copy is placed in the inmate's medical record.

#### B. Implementation

1. An inmate received by the Department of Corrections may upon admission be educated regarding the use of advance directives and Do Not Resuscitate Orders. The inmate may indicate his wishes through completion of an advance directive document that complies with Kentucky law.
2. The inmate may initiate advance directives at any time during incarceration.
3. The appropriate documents shall be read to an inmate who is not able to read, if the inmate is involved in the advance directive process during incarceration.
4. Any inmate whose decisional capacity is in question during the advance directive process shall be referred to a qualified mental health professional for a competency evaluation prior to completing any documents regarding advance directives.
5. Any inmate whose treating physician determines that his or her life expectancy is less than one year or who is to undergo a designated medical procedure shall be given the opportunity, before that procedure is performed, to sign or alter advance directives. The designated medical procedures shall include:
  - a. surgery
  - b. chemotherapy
  - c. admission to any outside hospital
  - d. admission to any DOC Medical Unit, including the Nursing Care Facility at Kentucky State Reformatory.

#### C. Changes in Directives

The inmate shall be offered the opportunity to update his advance directive document at least once each year, during the scheduled meeting with the Classification Committee.

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#### D. Revocation

An inmate may revoke or alter any of his advance directives including the request for a DNR Order at any time without regard to his or her mental or physical condition. Revocation of any advance directive or DNR Order may be accomplished using any of the following means:

1. By written, signed, and dated declaration of the intent to revoke. An oral statement of intent to revoke may be made by any inmate with decisional capacity in the presence of two adults, one of whom shall be a health care provider.
2. By destruction of the original advance directives document by the inmate or by some person in the inmate's presence and at the inmate's direction.
3. An oral statement by an inmate with decisional capacity to revoke an advance directive shall override any previous written advance directive made.
4. When a revocation is communicated to any healthcare professional, that professional shall document this revocation in the inmate's medical record and immediately notify the responsible physician.

#### E. Implementation of Directives:

The DOC shall implement the advance directives of any inmate by the following procedure:

1. Upon completion, the advance directives document shall be placed in the inmate's medical file.
2. If the inmate is to be transported to any outside medical facility, the advance directive document shall be delivered to that facility.
3. If the inmate is admitted to the Nursing Care Facility or any other long-term medical unit within the DOC, the advance directive shall be placed in the medical chart for that unit.

#### F. Health Care Surrogate:

1. As part of the advance directive, an inmate can appoint a surrogate to make health care decisions for him when he no longer has decisional capacity. When making any health care decision for the inmate, the surrogate shall consider the recommendations of the attending physician and honor the decisions made by the inmate as expressed in his advance

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directive.

2. The surrogate shall not make a health care decision in any situation in which the inmate's attending physician has determined in good faith that the inmate has decisional capacity.
3. An inmate may not appoint another inmate within the confines of the Kentucky Department of Corrections to be his health care surrogate. An exception may be made if the inmate surrogate is a relative.
4. Employees of the Department of Corrections shall not assume the role of designated health care surrogate for any inmate nor shall they witness advance directive documents or requests for DNR Orders unless they are a notary public.

# *Advance Directive*

## **1. Designation of Health Care Surrogate**

I designate \_\_\_\_\_

(Name of surrogate)

as my health care surrogate to make health care decisions for me in accordance with this directive when I no longer have decisional capacity.

If \_\_\_\_\_

(Name of surrogate)

refuses or is not able to act for me, I designate

\_\_\_\_\_

(Name of alternate surrogate)

as my health care surrogate.

Any prior designation is revoked.

## **2. Living Will Directive**

My wishes regarding life-prolonging treatment and artificially provided nutrition and hydration to be provided to me if I no longer have decisional capacity, have a terminal condition, or become permanently unconscious have been indicated by checking and initialing the appropriate lines below. If I do not designate a surrogate, the following are my directions to my attending physician. If I have designated a surrogate, my surrogate shall comply with my wishes as indicated below:

\_\_\_\_\_ Direct that treatment be withheld or withdrawn and that I be permitted to die naturally with only the administration of medication or the performance of any medical treatment deemed necessary to alleviate pain.

\_\_\_\_\_ DO NOT authorize that life-prolonging treatment be withheld or withdrawn.

\_\_\_\_\_ Authorize the withholding or withdrawal of artificially provided food, water, or other artificially provided nourishment or fluids.

\_\_\_\_\_ DO NOT authorize the withholding or withdrawal of artificially provided food, water, or other artificially provided nourishment or fluids.

\_\_\_\_\_ Authorize my surrogate designated above, to withhold or withdraw artificially provided nourishment or fluids, or other treatment if the surrogate determines that withholding or withdrawing is in my best interest; but I do not mandate that withholding or withdrawing.

### 3. Anatomical Gift

\_\_\_\_\_ Authorize the giving of all or any part of my body upon death for any purpose specified in KRS 311.185.

\_\_\_\_\_ DO NOT authorize the giving of all or any part of my body upon my death.

Other Directions:

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In the absence of my ability to give directions regarding the use of life-prolonging treatment and artificially provided nutrition and hydration, it is my intention that this directive shall be honored by my attending physician, my family, and any surrogate designated pursuant to this directive as the final expression of my legal right to refuse medical or surgical treatment and I accept the consequences of the refusal.

If I have been diagnosed as pregnant and that diagnosis is known to my attending physician, this directive shall have no force or effect during the course of my pregnancy.

I understand the full import of this directive and I am emotionally and mentally competent to make this directive.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.  
(Date) (Month) (Year)

Signature of grantor: \_\_\_\_\_

Address of grantor: \_\_\_\_\_  
\_\_\_\_\_

## Witnessing Procedure

In our joint presence, the grantor, who is of sound mind and eighteen (18) years of age, or older, voluntarily dated and signed this writing or directed it to be dated and signed for the grantor.

Signature of Witness: \_\_\_\_\_

Address of Witness: \_\_\_\_\_

\_\_\_\_\_

Signature of Witness: \_\_\_\_\_

Address of Witness: \_\_\_\_\_

\_\_\_\_\_

-OR-

STATE OF KENTUCKY                    )  
\_\_\_\_\_ COUNTY                    )

Before me, the undersigned authority, came the grantor who is of sound mind and eighteen (18) years of age or older, and acknowledged that he voluntarily dated and signed this writing or directed it to be dated and signed as above.

Done this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
(Signature of notary public or other person authorized to administer oaths)

Date commission expires: \_\_\_\_\_

Execution of this document restricts withholding and withdrawing of some medical procedures. Consult Kentucky Revised Statutes or your attorney.